

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:

Case No. 09-37125-cgm

SUSAN ROBERTA ABBOTT

Chapter 7

Debtor(s).

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MEMORANDUM OF LAW

This Chapter 7 Bankruptcy case is before the Court on motion of DRUCKMAN LAW GROUP PLLC, attorneys for Aurora Loan Services, LLC, (“Applicant”), a secured creditor, for relief from the automatic stay. Bankruptcy Code §362(d) provides that:

“On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay –

(i) for cause, including the lack of adequate protection of an interest in property of such party in interest;

(ii) with respect to a stay of an act against property under subsection (a) of this section, if –

(A) The debtor does not have any equity in such property; and

(B) Such property is not necessary to an effective reorganization; or ...”

In addition, Bankruptcy Code §362(f) provides that:

“Upon request of a party in interest, the court, with or without a hearing, shall grant such relief from the stay provided under subsection (a) of this section as is necessary to prevent irreparable damage to the interest of an entity in property, if such interest will suffer such damage before there is an opportunity for notice and a hearing under subsection (d) or (e) of this section.”

In the case at bar, the debtors have failed to make mortgage payments and have demonstrated an inability to make payments. As a consequence, the debtors have caused applicant to suffer prejudicial delay; the collateral is decreasing in value and adequate protection requires maintenance of the creditor's interest in the collateral through regular monthly payments and the payment of taxes.

WHEREFORE, the applicant respectfully requests that it be granted the relief set forth in its motion.

Dated: Westbury, New York
September 2, 2009

Yours, etc.

/s/ Kiyam J. Poulson, Esq.
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